



FROM THE HALLS OF THE CAPITOL A REPORT FROM TALLAHASSEE



AGC Alabama Northwest Florida Section

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Week Two Legislative Report

Cold Grips Capital City

Temperatures approached the teens this week in Tallahassee, causing a challenge for visitors to the Capitol from milder regions of the state. Tallahassians and visitors alike had to brave several frosty mornings as they made their way down Adams Street to the Capitol.

No Huggin' or Kissin'

Senate President Joe Negron rolled out a new sexual-harassment policy during week two. On the heels of the resignation of two prominent senators because of sex scandals, the Senate President released a new sexual-harassment policy outlining do's and don'ts --- mostly don'ts --- to guide senators, aides and lobbyists. Unwelcome physical behavior that could constitute sexual harassment includes kissing or hugging, unless welcome or clearly not objected to, when made in connection with a greeting or parting, such as a peck on the cheek. Will this lead to name badges that say, "Hello I'm Senator _____, and I'm a hugger", or "NO hugs and kisses please"?

Another Latvala Accuser Comes Forward

You can add a name and face to yet another staffer/lobbyist who has come forward accusing former Senator Jack Latvala of unwelcome advances. Former lobbyist and now Legislative Assistant to Senator Lauren Book, Laura McLeod, came forward this week with shocking details of her encounters with former Senator Jack Latvala. Years ago when he was in the Florida House the two had a consensual affair. However, after she had broken off the affair and he was re-elected to the Florida Senate several years later, he continued to make sexual advances and send lewd text messages to her.

No Special Election for You

If you live in Senate District 16, formerly held by recently ousted Senator Jack Latvala, or House District 33, formerly held by the late Representative Don Hahnfeldt, there will be no special election for you. You will have to wait until the November General Elections. This means you will have no one representing you in the Florida Senate for 10 months. The reason given is cost...for Senate District 16m the Supervisors of Election in the counties affected said that it would cost more than \$1 million combined. There are currently six vacant seats in the Legislature.

Constitutional Amendments

Here's a quick look at where we stand with Constitutional Amendments for the November ballot. These do not include any possible amendments coming from the Constitution Revision Commission which doesn't complete its work until late this spring. Two CRC committees have now approved a proposal to require E-verify for all new hires by employers. Proposal 29 will now go to the full commission for final action.

- Amendment 1 is "Increased Homestead Property Tax Exemption," proposed by the Legislature.
- Amendment 2 is "Limitations on Property Tax Assessments," proposed by the Legislature.
- Amendment 3 "Voter Control of Gambling" measure, the first citizen initiative OK'd for the 2018 ballot.
- Another initiative could be close to becoming Amendment 4: The Voting Restoration Amendment, which would restore nonviolent ex-cons' rights to vote.

Looking Ahead to Week Three

As the 60-day Legislative Session heads into its third week, the high-stakes battle over the budget is about to start. House and Senate Appropriations Subcommittee chairs are expected to roll out their policy-specific budgets next week. Both chamber's full budgets should be out in the fourth week of Session.

No Surprises from the Select Committee on Hurricane Response & Preparedness

The Select Committee held its final meeting on Tuesday, January 16, 2018 and adopted the Committee's final recommendations. As reported last week, the recommendations focused on the core mission of the committee and did not incorporate any directives relating to construction liens. The 78 recommendations made by the committee now go to substantive House committees for any action they wish to take and included recommendations relating to evacuation, electricity and petroleum, shelters and vulnerable populations, health care facilities and medical care, agriculture, future hurricane expenditures and tax relief and affordable housing recovery.

Three New Bills of Interest That Just Made the Filing Deadline

Jurisdiction of the County Courts: SB 1384 by Brandes

This Senate Bill would increase the jurisdiction of the county court system from the current \$15,000 threshold to \$100,000 and require the limit to be adjusted every 10 years. There is no

similar House Bill on this issue.

Insurer Contracts with Building Contractors: SB 1140 by Garcia

This Senate Bill would establish requirements for insurers who give insured the option to have repairs done by a contractor chosen by the insurer. If an insurer restricts the insured's choices, it **MUST** use an actively licensed Chapter 489 contractor, ensure that necessary permits are obtained, guarantee the quality of the work performed for a period of three years, and here's the provision of interest, "**prohibit the contractor from placing a lien on the covered property.**" Under current law, a contract that prohibits the enforcement of lien rights would be unenforceable under Chapter 713. There is no similar House Bill on this issue.

Fraudulently Obtaining or Retaining Personal Property or Equipment: HB 1309 by Alexander

This House bill amends the statute on hiring or leasing equipment with the intent to defraud. It would increase the threshold for a felony of the third degree from \$300 to \$750. This is not as large of a change as the theft bills I have already reported on which would raise the amount to \$1,500. There is no corresponding Senate Bill on this issue.

The three bills mentioned above were filed close to the bill filing deadline and have been referred to committees but not agendaed. They have no companion bills in the other chamber which makes them very difficult to pass, but I will watch them and report on any progress they might make.

Construction Bonds

(HB 723 by McClain/SB 908 by Steube)

This legislation has been the subject of conference calls during the month of December with interested members of the Construction Coalition. As filed, some construction stakeholder groups have serious concerns and are opposed to this legislation. Most objectionable, the bill would require a notice of nonpayment to be verified under oath and have **ALL** documents substantiating the claim as attachments. The bill also has provisions that would gut the current protections when a payment bond is conditional. Stakeholders have met with the bill sponsors to express their concerns with the bill.

STATUS: **HB 723** has been referred to the House Careers & Competition Subcommittee; Civil Justice & Claims Subcommittee; and Commerce Committee. **SB 908** has been referred to the Senate Judiciary Committee; Community Affairs Committee; and Rules Committee. No movement on either of the bills during the second week of Session.

Direct Purchases of Tangible Personal Property by Contractors

(HB 715 by Leek/SB 1108 by Young)

These bills are an attempt to allow a governmental entity to assign the right to use its certificate of entitlement to contractors and subs to purchase tax exempt. ABC, who is behind the legislation, is encountering similar difficulties with the revenue estimators as in years past by other groups, with at least a \$1 million annual recurring fiscal impact. **HB 715** is scheduled for a workshop this

coming Tuesday afternoon before the House Oversight, Transparency and Administration Subcommittee. The committee has a very full agenda of bills to be heard, so it will be interesting to see how much time is allocated to the workshop. No votes will be taken on the bill this week, but I will be there to participate.

STATUS: HB 715 has been referred to the House Oversight, Transparency & Administration Subcommittee; Ways & Means Committee; and Government Accountability Committee. The bill is scheduled to be workshopped at the House Oversight, Transparency & Administration Subcommittee on Tuesday, January 23 at 3:30 p.m. **SB 1108** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. No movement on either of the bills during the second week of Session.

Use of Wireless Communications Devices While Driving/Texting While Driving

(HB 33 by Toledo/CS/SB 90 by Perry)

These bills would make a violation of the statute a primary offense and would also require the officer to inform the vehicle operator they have the right to decline a search of their cell phone. The phone could not be searched or seized without a warrant. **CS/SB 90** by Senator Keith Perry is comparable but not identical. It requires fines collected to be deposited into the Emergency Medical Services Trust Fund.

STATUS: HB 33 has been referred to the House Transportation and Infrastructure Subcommittee; Judiciary Committee; and Government Accountability Committee. The bill remains in the House Judiciary Committee, its last committee reference. **CS/SB 90** has been referred to the by Senate Communications, Energy, and Public Utilities Committee; Transportation Committee; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations Committee. The bill is scheduled to be heard by the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development on Tuesday, January 23 at 9:00 a.m. No movement on either of the bills during the second week of Session.

Actions Against Contractors without Required Insurance Coverage

(HB 89 by Spano/SB 604 by Steube)

These identical bills are the result of an actual case **Representative Spano** had where a contractor's insurance coverage specifically excluded condominium work. The bills would pierce the corporate veil and make a contractor personally liable if they knowingly failed to carry the public liability insurance and property damage insurance required by s. 489.115 or knowingly performed work that was specifically excluded from such policies.

STATUS: HB 89 has been referred to the House Civil Justice and Claims Subcommittee; Careers and Competition Subcommittee; and Judiciary Committee. The bill remains in the House Careers and Competition Subcommittee. **SB 604** has been referred to the Senate Regulated Industries Committee; Judiciary Committee; and Rules Committee. No movement on either of the bills during the second week of Session.

Electrical Contractors

(HB 295 by Mercado/SB 446 by Gibson)

These bills amend state law to require a journeyman electrician to supervise installation of 77 volts or more on all commercial or industrial projects. Currently, there is a 50,000-square foot threshold before this requirement kicks in. Historically, contractor groups have opposed this union initiative.

STATUS: **HB 295** has been referred to the House Careers and Competition Subcommittee; Local, Federal and Veterans Affairs Subcommittee; and Commerce Committee. **SB 446** has been referred to the Senate Regulated Industries Committee; Community Affairs Committee; and Rules Committee. No movement on either of the bills during the second week of Session.

Florida Building Commission

(HB 299 by McClain)

This bill would reduce the membership of the Florida Building Commission from its current 27 members to 11, removing many industry representative seats on the Commission. The bill was agendaed to be heard in October but was temporarily postponed. This is very controversial, and a Senate companion has not yet surfaced.

STATUS: **HB 299** has been referred to the House Careers and Competition Subcommittee; and Commerce Committee. The bill remains in the House Commerce Committee, its last committee reference. No movement on the bill during the second week of Session.

Impact Fees

(CS/CS/HB 697 by Young/CS/SB 324 by Young)

These Florida Home Builders Association supported bills are an attempt to rein in the assessment and collection of impact fees.

STATUS: **CS/CS/HB 697** has been referred to the House Local, Federal and Veterans Affairs Subcommittee; Ways and Means Committee; and Government Accountability Committee. The bill passed the House Ways and Means Committee on Wednesday, January 17 on a vote of 15-1. The bill now goes to the House Government Accountability Committee, its last committee reference. **CS/SB 324** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. The bill remains in the Senate Appropriations Subcommittee on Finance and Tax. No movement on the Senate Bill during the second week of Session.

Statute of Limitations for Actions Relating to Real Property Improvement

(CS/HB 875 by Leek; SB 536 by Passidomo)

Bills passed in recent years on this issue remain controversial, and these ABC-supported bills are an attempt to resolve those issues and clarify the statute. In addition to technical tweaks, the bills establish a time for filing cross-claims and counterclaims and clarify that work performed after

issuance of a certificate of completion or certificate of occupancy does not extend the time for filing an action.

STATUS: **CS/HB 875** has been referred to the House Civil Justice & Claims Subcommittee; Agriculture & Property Rights Subcommittee; and Judiciary Committee. The bill unanimously passed the House Civil Justice & Claims Subcommittee on Wednesday, January 17 on a vote 13-0. The bill now goes to the House Agriculture & Property Rights Subcommittee. **SB 536** has been referred to the Senate Judiciary Committee; Community Affairs Committee; and Rules Committee. No movement on the Senate Bill during the second week of Session.

Construction Defect Claims

(HB 759 by Trumbull/SB 680 by Passidomo)

This legislation is an attempt to rein in construction defects claims. It requires claimants to personally sign claims, settlement documents, etc. and to be present at inspections. It requires a rejection of settlement to be accompanied by a demand for mediation and to explain why the settlement offer was not considered adequate and sets various time periods and deadlines.

STATUS: **HB 759** has been referred to the House Civil Justice & Claims Subcommittee; and Judiciary Committee. The bill remains in the House Judiciary Committee, its last committee reference. **SB 680** has been referred to the Senate Judiciary Committee; Commerce and Tourism Committee; and Rules Committee. No movement on either of the bills during the second week of Session.

Opened and Expired Building Permits

(HB 1077 by /SB 1322 by Powell)

These bills would add failing to properly close any permit or satisfy any applicable permit requirement to the list of violations for which the Construction Industry Licensing Board can discipline a contractor. These bills are 15 pages full of new requirements defining expired permits, setting forth procedures for completion of open permit projects that have not been inspected or closed, addressing changing contractors and requiring a notice to all permit applicants about permit and inspection requirements. The bill allows local governments to enforce other local restrictions that are not inconsistent and/or add additional permit closure requirements.

STATUS: **HB 1077** has been referred to the House Careers & Competition Subcommittee; Local, Federal & Veterans Affairs Subcommittee; and Commerce Committee. **SB 1322** has been referred to the Senate Regulated Industries Committee; Community Affairs Committee; and Rules Committee. No movement on either of the bills during the second week of Session.

Regulatory Reform-Licensing

(HB 1041 by Plakon//SB 1114 by Brandes)

These bills specify licenses that can be obtained after certain specified time periods have lapsed since the conviction or determination of guilt. The professions included are cosmetology and barbers, construction contractor in the subtrades and specialty contractors and nursing assistants. The bills allow a person to apply to the respective board for a declaratory statement as to whether

they are eligible for licensure and create procedures and time periods.

STATUS: **HB 1041** has been referred to the House Careers and Competition Subcommittee; Local, Federal and Veterans Affairs Subcommittee; and Commerce Committee. **SB 1114** has been referred to the Senate Regulated Industries Committee; Commerce and Tourism Committee; and Rules Committee. The bill is scheduled to be heard by the Senate Regulated Industries Committee on Wednesday, January 24 at 11:30 a.m. No movement on any of the bills during the second week of Session.

Regulatory Reform-Red Tape Reduction Act

(HB 791 by M. Diaz/SB 1268 by Perry)

These bills would create the Red Tape Reduction Advisory Council under the Executive Office of the Governor, consisting of members appointed by the Governor, House Speaker and Senate President. A baseline for the number of administrative rules in existence on January 1, 2019 would be established and an agency could not adopt an additional rule without repealing an existing rule. The council shall: (a) Annually review the Florida Administrative Code to determine whether any rules are duplicative or obsolete, are especially burdensome to businesses within the state, disproportionately affect businesses with fewer than 100 employees or disproportionately affect businesses with annual revenue below \$5 million. If the council determines that a rule meets at least one of these criteria and can be repealed or amended with minimal impact on public health, safety and welfare, the council shall recommend repealing or amending the rule.

STATUS: **HB 791** has been referred to the House Oversight, Transparency & Administration Subcommittee; Appropriations Committee; and Government Accountability Committee. **SB 1268** has been referred to the Senate Governmental Oversight and Accountability Committee; Appropriations Subcommittee on General Government; and Appropriations Committee. No movement on either of the bills during the second week of Session.

Annual Business Organization Reports and Fees

(HB 373 by M. Grant/SB 1228 by Hukill)

These bills would change the annual corporate reporting to bi-annual reporting.

STATUS: **HB 373** has been referred to the House Oversight, Transparency & Administration Subcommittee; Ways & Means Committee; and Government Accountability Committee. **SB 1228** has been referred to the Senate Commerce and Tourism Committee; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations Committee. The bill unanimously passed the Senate Commerce and Tourism Committee in Tuesday, January 16 on a vote of 7-0. The bill now goes to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development. No movement on the House Bill during the second week of Session.

Business Filings

(CS/HB 661 by M. Miller/CS/SB 610 by Young)

These bills would require the Department of State to create a notification program by December 31, 2018 to combat the fraudulent filing of business and corporate documents. Each time a document is filed, an email notice to the business would be required.

Status: **CS/HB 661** has been referred to the House Oversight, Transparency and Administration Subcommittee; Transportation and Tourism Appropriations Subcommittee; and Government Accountability Committee. The bill remains in the House Transportation and Tourism Appropriations Subcommittee. **CS/SB 610** has been referred to the Senate Commerce and Tourism Committee; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations Committee. The bill unanimously passed the Senate Appropriations Committee, its last committee reference, on Thursday, January 18 on a vote of 19-0. The bill now goes to the Senate Calendar. No movement on the House Bill during the second week of Session.

Notaries Public

(HB 771 by J. Grant/SB 1042 by Brandes)

These bills would create new sections of statute with respect to electronic notarization. They allow an individual and witnesses to appear “in person” via computer audio-video communication technology and specify detail as to validations, forms and other requirements.

STATUS: **HB 771** has been referred to the House Civil Justice & Claims Subcommittee; Transportation & Tourism Appropriations Subcommittee; and Judiciary Committee. The bill unanimously passed the House Civil Justice & Claims Subcommittee on Wednesday, January 17 on a vote of 15-0. The bill now goes to the House Transportation & Tourism Appropriations Subcommittee. **SB 1042** has been referred to the Senate Judiciary Committee; Governmental Oversight and Accountability Committee; and Rules Committee. No movement on the Senate Bill during the second week of Session.

Theft

(HB 713 by Donalds and Alexander/CS/SB 928 by Bracy)

These bills would raise the current threshold for what is considered grand theft and a third-degree felony from the current \$300 threshold to \$1,500. Theft of less than \$1,500 would be considered petit theft. They remove some specific items from the statute including theft of materials from a designated and posted construction site. The bills would also change provisions relating to repeat offenders to add the requirement that the increased penalties only apply to adult offenders.

STATUS: **HB 713** has been referred to the House Criminal Justice Subcommittee; Justice Appropriations Subcommittee; and Judiciary Committee. The bill remains in the House Justice Appropriations Subcommittee. **CS/SB 928** has been referred to the Senate Criminal Justice Committee; Judiciary Committee; and Rules Committee. The bill remains in the Senate Judiciary Committee. No movement on either of the bills during the second week of Session.

Workers' Compensation

(HB 7009 by Commerce Committee and Burgess)

The business community and workers' compensation coalition do not believe the bill goes far enough to make a substantial difference in the anticipated rate hikes. The bill repeals caps put in place in 2003, requires the existing medical reimbursement panel to move to annual adoption of maximum reimbursement allowances, extends timeframes in which employees may receive certain workers' compensation benefits and in which a carrier must notify a treating doctor of certain requirements and revises provisions relating to retainer agreements and awarding attorney fees. It also allows the Judge of compensation claims to deny a claim if the claimant or claimant's attorney did not make a good faith effort to settle the claim out of court.

STATUS: **HB 7009** remains in messages to the Senate. No movement on the bill during the second week of Session.

Property Insurance (Assignment of Benefits (AOB))

(HB 7015 by Trumbull/SB 62 by Hukill/SB 256 by Farmer/SB 258 by Farmer/SB 1168 by Steube)

HB 7015 encompasses the only proposal coming from the House on this issue. The various Senate bills are unlike the House bill and are different attempts to address AOB. Several, including Senator **Farmer's** and **Steube's** bills, prohibit attorney fees and costs paid by a property insurer under an AOB from being included in the property insurer's rate base or used to justify a rate increase or rate change. Each of the bills contains a mix of different provisions but consistent is allowing AOB under certain conditions, giving the assignor/property owner the option to rescind the assignment within seven days but be responsible for payment of work performed prior to the rescission, notifying the property insurer within a specified period of time that benefits have been assigned and itemizing the services to be performed.

STATUS: **HB 7015** remains in messages to the Senate. **SB 62** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 256** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 258** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 1168** has been referred to the Senate Banking and Insurance Committee; Judiciary Committee; and Rules Committee. The bill was scheduled to be heard by the Senate Banking and Insurance Committee on Tuesday, January 16; however, the bill was not considered. The bill is scheduled to be heard by the Senate Banking and Insurance Committee on Tuesday, January 23 at 3:30 p.m. No movement on any of the bills during the second week of Session.

Small Business Participation in State Contracting

(SB 114 by Campbell)

This is the same legislation filed for several years by **Senator Campbell**. It would require state agencies to break contracts into smaller pieces to allow for smaller contractors to bid. It would require 35% of the agencies contracts to be awarded to small contractors, and it would prohibit requiring bonds for contracts under \$500,000. This is legislation I have opposed and will continue to do so. At present, there is no House companion bill.

STATUS: **SB 114** has been referred to the Senate Governmental Oversight and Accountability Committee; Appropriations Subcommittee on General Government; and Appropriations Committee. No movement on the bill during the second week of Session.

Permit Fees

(CS/HB 725 by Williamson/CS/SB 1144 by Perry)

These bills would require permitting and inspection fees to be published on the local government's website and would require justification through specific reporting prior to raising the fees.

STATUS: **CS/HB 725** has been referred to the House Local, Federal and Veterans Affairs Subcommittee; Careers and Competition Subcommittee; and Government Accountability Committee. The bill is scheduled to be heard by the House Careers and Competition Subcommittee on Tuesday, January 23 at 8:00 a.m. **CS/SB 1144** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. The bill unanimously passed the Senate Community Affairs Committee on Tuesday, January 16 on a vote of 5-0. The bill now goes to the Senate Appropriations Subcommittee on Finance and Tax. No movement on the House Bill during the second week of Session.

To view and print the above bills from this week's Legislative Report, please go to either www.floridahouse.gov or www.flsenate.gov. Other legislative information can be found by going to www.leg.state.fl.us. If you have any questions or need additional information, please contact me at rbkershner@att.net.